# **EXHIBIT** Q

#### Mina Hamilton - DMV.ORG Facebook Page

From:

Mina Hamilton

To:

Andrew B. Serwin

Date:

9/1/2011 4:18 PM

Subject:

**DMV.ORG Facebook Page** 

CC:

DeCarlo, Dan; Makous, David

#### Andrew,

We are aware that comments on your clients' Facebook page are being deleted as we speak. As their lawyer, we trust that you have and will continue to instruct your clients of the severe consequences of tampering with and deleting relevant evidence.

Regards,

Mina I. Hamilton | Partner | Intellectual Property
Lewis Brisbois Bisgaard & Smith LLP
t 213.580.7926 | f 213.250.7900 | e hamilton@lbbslaw.com
221 N. Figueroa Street, Suite 1200
Los Angeles, CA 90012

This message may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended recipient (or authorized to act on behalf of the intended recipient) of this message, you may not disclose, forward, distribute, copy, or use this message or its contents. If you have received this communication in error, please notify us immediately by return e-mail and delete the original message from your e-mail system. Thank you.

file://C:\Documents and Settings\hamiltn\Local Settings\Temp\XPgrpwise\4E5FB054\$\$\$\$\$100124242412... 9/6/2011

## **EXHIBIT** R

**From:** "Serwin, Andrew B." <ASerwin@foley.com> **To:** "Mina Hamilton" <HAMILTON@lbbslaw.com>

**CC:** "Boggs, Tammy H." <TBoggs@foley.com>, "Solis, Theresa" <TSolis@foley.com...

**Date:** 9/6/2011 4:59 PM

Subject: RE: Trafficschool.com, et al. vs. Edriver, Inc., et al - Letter from Andrew Serwin to Mina

Hamilton dated 9/6/11

Mina,

I do not agree with the conclusions you are attempting to draw, but the Defendants have informed me that they are not currently removing posts from public view on Facebook if they have not taken steps to keep independent copies.

Andy.

\_\_\_\_\_

From: Mina Hamilton [mailto:HAMILTON@lbbslaw.com]

Sent: Tuesday, September 06, 2011 4:22 PM

To: Serwin, Andrew B.

Cc: Boggs, Tammy H.; Solis, Theresa; Josephine Brosas; Dan DeCarlo;

**David Makous** 

Subject: RE: Trafficschool.com, et al. vs. Edriver, Inc., et al - Letter

from Andrew Serwin to Mina Hamilton dated 9/6/11

Hi Andrew,

The evidence is clearly relevant (because it admittedly evidences confusion) and was purposely deleted by your clients while it was within their control to do so. As such, your clients have engaged in spoiliation, regardless of the purported reasons for doing so. That this data may still be in possession of a third-party (i.e., Facebook), does not relieve your clients of their obligations to maintain and not delete relevant evidence in their possession and control. We understand by your letter and email below that your clients have made no efforts to preserve the evidence that it "removed from public view on Facebook." We hereby again demand confirmation that your client will cease such practices, and we reserve all rights.

-Mina

>>>

From: "Serwin, Andrew B." <ASerwin@foley.com>
To: "Mina Hamilton" <HAMILTON@lbbslaw.com>

DeCarlo" <DECARLO@Ibbslaw.com>, "David Makous" <MAKOUS@Ibbslaw.com>

Date: 9/6/2011 4:05 PM

Subject: RE: Trafficschool.com, et al. vs. Edriver, Inc., et al -

Letter from Andrew Serwin to Mina Hamilton dated 9/6/11

Mina,

I do not think your email accurately states what I said in my letter. The Defendants have represented that they have preserved what relevant evidence is in their possession, custody or control, but also informed you that certain comments were removed from public view on Facebook. Facebook is a third-party platform over which the Defendants do not have control to delete data from, and Facebook's preservation policies are their own standards. If you believe that there is relevant evidence in Facebook's possession, custody, or control, then you should take whatever steps you deem appropriate to address that. Moreover, the Defendants have, from time to time, removed comments consistent with what I informed you of in my letter and they do not believe the timing is what you suggest below and the resulting inferences you are attempting to draw are, as a result, not well founded.

Andy.

From: Mina Hamilton [mailto:HAMILTON@lbbslaw.com]

Sent: Tuesday, September 06, 2011 2:36 PM

To: Serwin, Andrew B.

Cc: Boggs, Tammy H.; Solis, Theresa; Josephine Brosas; Dan DeCarlo;

**David Makous** 

Subject: Re: Trafficschool.com, et al. vs. Edriver, Inc., et al - Letter

from Andrew Serwin to Mina Hamilton dated 9/6/11

#### Andrew,

Thank you for your letter. In the interest of time, I am responding via email.

First, you have misstated the meet and confer conversation. It is not true that Plaintiff's "could not point to any evidence of ongoing deceptive conduct" by your clients --- we certainly did, can and will -- however your refusal to provide us with even Defendants' position and level of ongoing confusion set the tone of the conversation, and Plaintiffs did state that we believe that both confusion and deception is indeed occurring. Moreover, Plaintiffs were never "unwilling to further discuss the contours of a modified injunction"; we simply took your invitation to send you a list of proposed discovery. The fact that your clients subsequently changed their mind about discovery, and subsequently admitted that there is ongoing confusion is your clients' choice, but is not a reason to suggest that Plaintiff has no evidence of deceptive conduct by your client. Indeed, we even specifically pointed out how your clients have deceptively implemented the splash screen over these past three years.

Second, while we disagree with most everything else in your letter, we will rely on the confirmation that your clients have preserved all relevant electronic data. We find it more than interesting that the "complaints that were apparently addressed to a Department of Motor Vehicles" were only recently removed after we informed your clients of our knowledge of their Facebook page and asked them to preserve the comments. Our clients reserve all rights and remedies.

Regards,

Mina I. Hamilton | Partner | Intellectual Property

Lewis Brisbois Bisgaard & Smith LLP t 213.580.7926 | f 213.250.7900 | e hamilton@lbbslaw.com

221 N. Figueroa Street, Suite 1200

Los Angeles, CA 90012

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

This message may contain information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended recipient (or authorized to act on behalf of the intended recipient) of this message, you may not disclose, forward, distribute, copy, or use this message or its contents. If you have received this communication in error, please notify us immediately by return e-mail and delete the original message from your e-mail system. Thank you.

\*

>>>

From: "Solis, Theresa" <TSolis@foley.com>

To: <hamilton@lbbslaw.com>

<makous@lbbslaw.com>, "Serwin, Andrew B." <ASerwin@foley.com>, "Boggs,

Tammy H." <TBoggs@foley.com> Date: 9/6/2011 1:59 PM

Subject: Trafficschool.com, et al. vs. Edriver, Inc., et al -

Letter from Andrew Serwin to Mina Hamilton dated 9/6/11

<<ONLINE GURU TRAFFIC SCHOOL Letter to Mina Hamilton from Andy Serwin re responding to their meet & co.PDF>>

Please attached a letter sent on behalf of Andrew Serwin to Mina Hamilton, dated September 6, 2011, in the above-entitled matter.

Terry Solis | Litigation Assistant to Debra Nye and Tammy Boggs | FOLEY & LARDNER LLP | 3579 Valley Centre Drive, Suite 300 | San Diego, CA 92130

tel: +1.858.847.6843 (direct) | tel: +1.858.847.6700 (general) | fax: +1.858.792.6773 | email: tsolis@foley.com | web: www.foley.com <file://www.foley.com>

The preceding email message may be confidential or protected by the attorney-client privilege. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this message in error, please (i) do not read it, (ii) reply to the sender that you received the message in error, and (iii) erase or destroy the message. Legal advice contained in the preceding message is solely for the benefit of the Foley & Lardner LLP client(s) represented by the Firm in the particular matter that is the subject of this message, and may not be relied upon by any other party.

Internal Revenue Service regulations require that certain types of written advice include a disclaimer. To the extent the preceding message contains advice relating to a Federal tax issue, unless expressly stated otherwise the advice is not intended or written to be used, and it cannot be used by the recipient or any other taxpayer, for the purpose of avoiding Federal tax penalties, and was not written to support the promotion or marketing of any transaction or matter discussed herein.

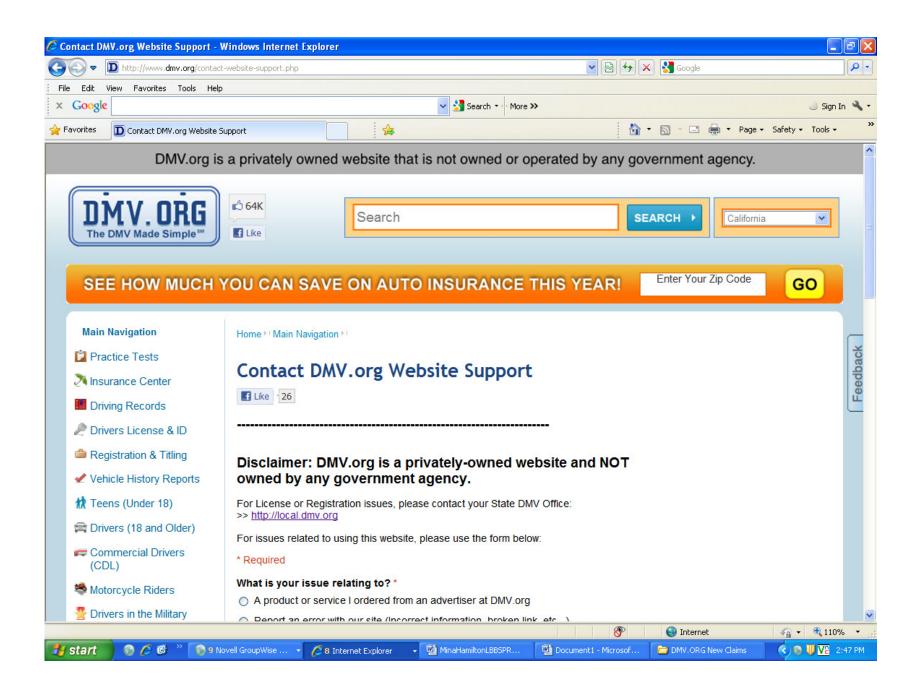
The preceding email message may be confidential or protected by the attorney-client privilege. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this message in error, please (i) do not read it, (ii) reply to the sender that you received the message in error, and (iii) erase or destroy the message. Legal advice contained in the preceding message is solely for the benefit of the Foley & Lardner LLP client(s) represented by the Firm in the particular matter that is the subject of this message, and may not be relied upon by any other party.

Internal Revenue Service regulations require that certain types of written advice include a disclaimer. To the extent the preceding message contains advice relating to a Federal tax issue, unless expressly stated otherwise the advice is not intended or written to be used, and it cannot be used by the recipient or any other taxpayer, for the purpose of avoiding Federal tax penalties, and was not written to support the promotion or marketing of any transaction or matter discussed herein.

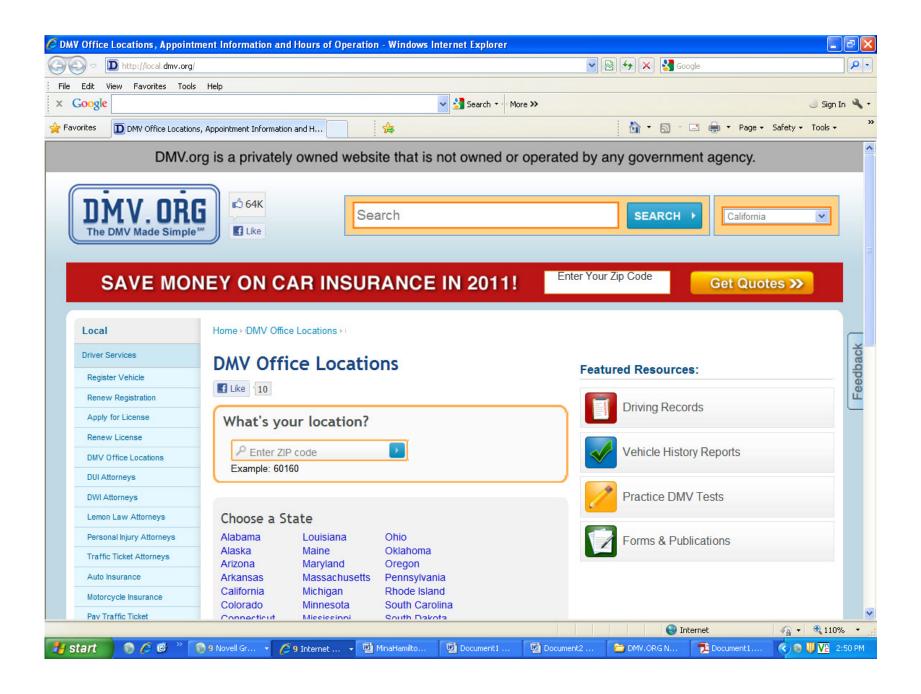
The preceding email message may be confidential or protected by the attorney-client privilege. It is not intended for transmission to, or receipt by, any unauthorized persons. If you have received this message in error, please (i) do not read it, (ii) reply to the sender that you received the message in error, and (iii) erase or destroy the message. Legal advice contained in the preceding message is solely for the benefit of the Foley & Lardner LLP client(s) represented by the Firm in the particular matter that is the subject of this message, and may not be relied upon by any other party.

Internal Revenue Service regulations require that certain types of written advice include a disclaimer. To the extent the preceding message contains advice relating to a Federal tax issue, unless expressly stated otherwise the advice is not intended or written to be used, and it cannot be used by the recipient or any other taxpayer, for the purpose of avoiding Federal tax penalties, and was not written to support the promotion or marketing of any transaction or matter discussed herein.

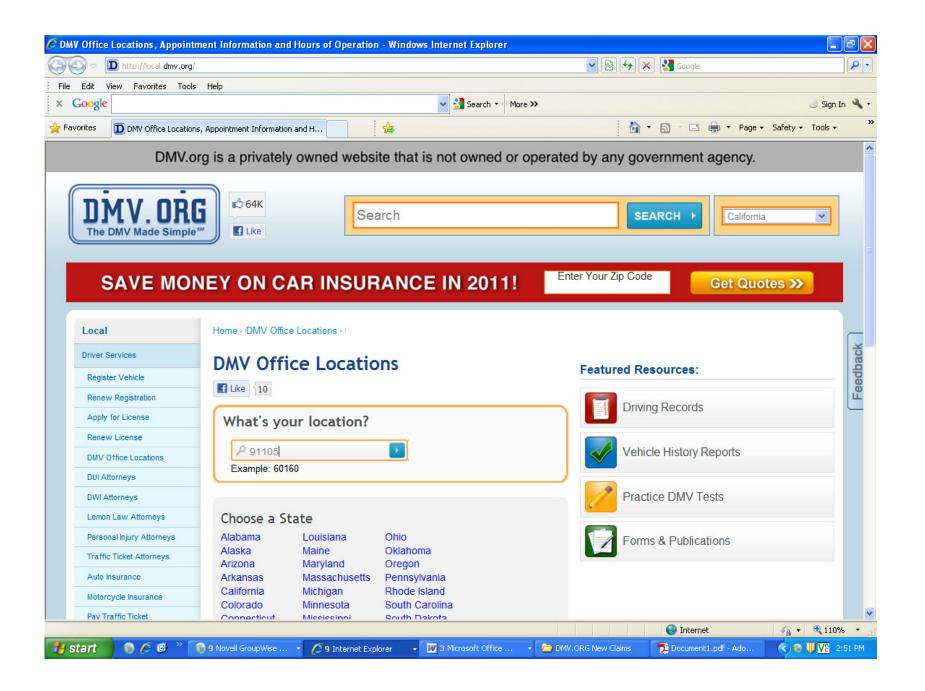
# **EXHIBIT** S



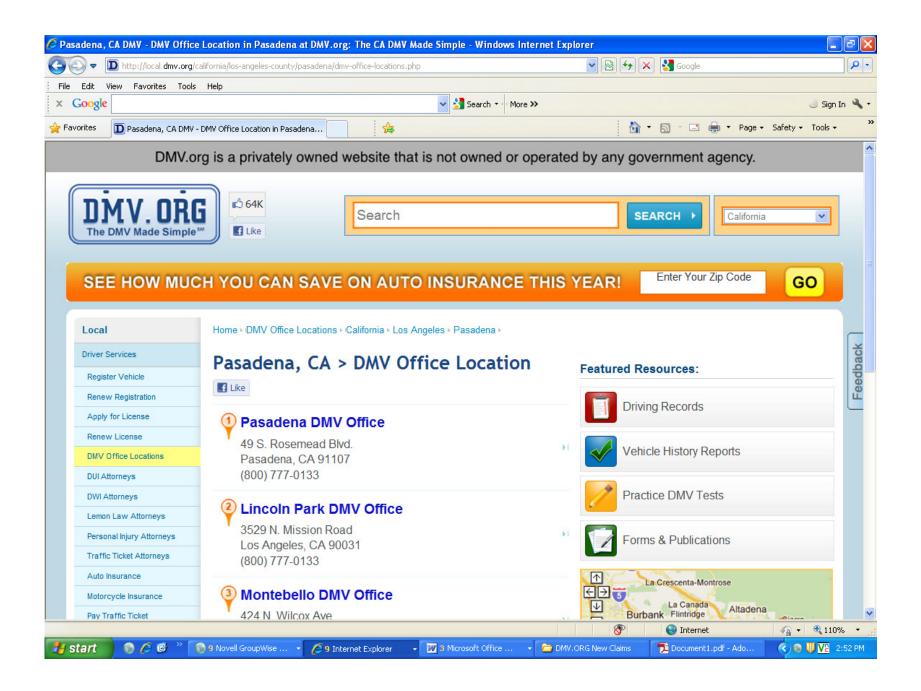
## **EXHIBIT** T



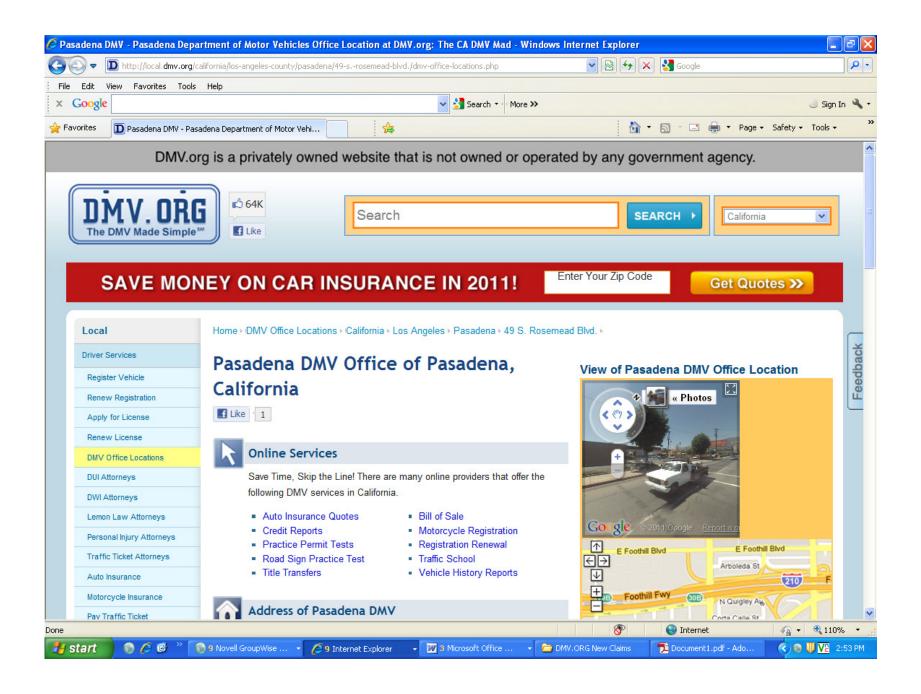
# EXHIBIT U



# **EXHIBIT** V



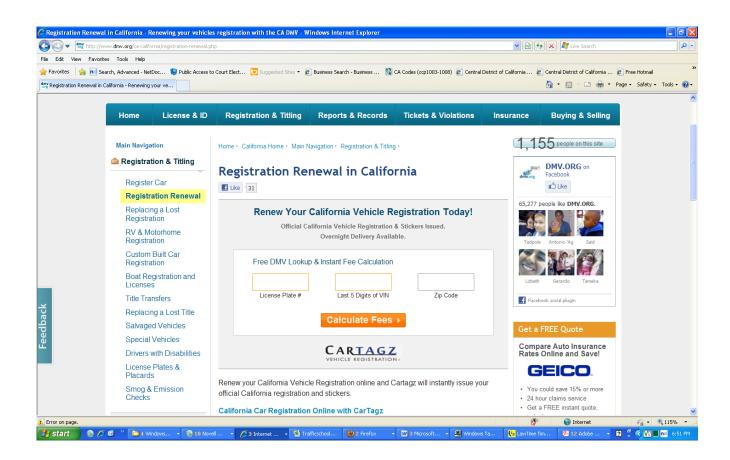
# **EXHIBIT** W

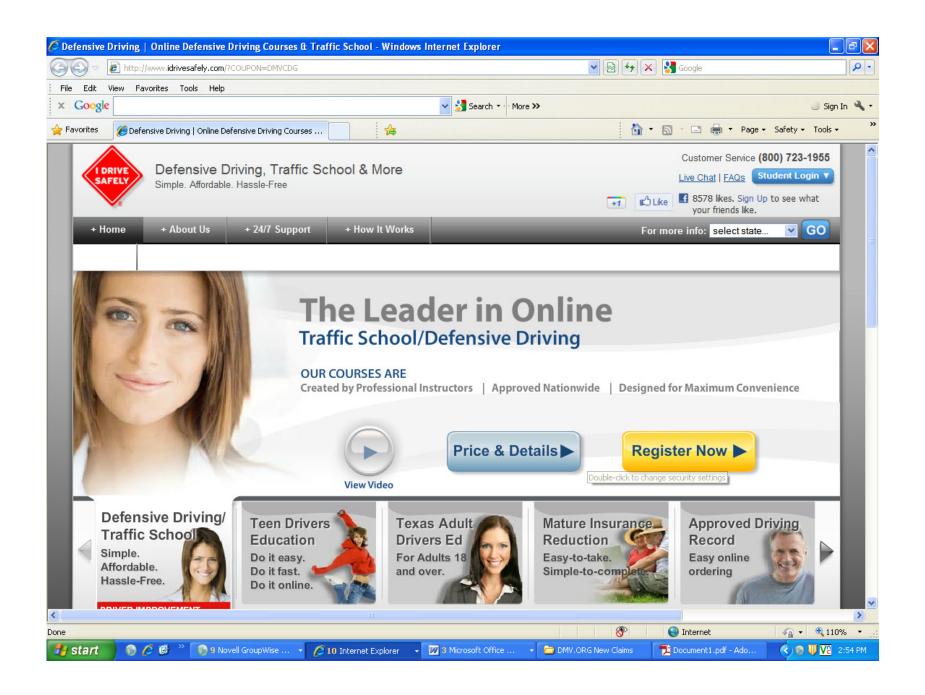


## **EXHIBIT** X



## EXHIBIT X-1





## EXHIBIT X-2

